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COVA, ANDREW VERGARA JR., DONALD SCHWARTZER, HORACE  
FRANK, KEVIN MONTGOMERY, LARRY GUILLEN and RONALD CRUMP

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

NADINE HAYS,

Plaintiff,

vs.

LOS ANGELES POLICE  
DEPARTMENT, et al.,

Defendants.

) Case No. CV12-10219 DMG(PJW)  
)  
) **DECLARATION OF LISA K.**  
) **GARNER IN SUPPORT OF**  
) **DEFENDANTS' OPPOSITION**  
) **TO PLAINTIFF'S MOTION**  
) **FOR HER TO BE ALLOWED**  
) **TO RECORD**  
) **CONVERSATIONS WITH**  
) **DEFENSE COUNSELS**  
) **WITHOUT THE CONSTANT**  
) **THREAT OF BEING**  
) **PROSECUTED FOR A**  
) **FELONY CRIME AND IN**  
) **SUPPORT OF REQUEST FOR**  
) **SANCTIONS AGAINST**  
) **PLAINTIFF FOR FILING A**

1 ) **FRIVOLOUS MOTION**  
2 )  
3 ) Accompanying Papers:  
4 ) Defendants' Opposition  
5 ) Complaint filed: November 29,  
6 ) 2012  
7 ) Discovery Cut-off: May 5, 2014

6 **DECLARATION OF LISA K. GARNER**

7 I, Lisa K. Garner, hereby declare as follows:

8 1. I am a partner with the law firm of Gordon & Rees LLP, attorneys of  
9 record for Defendant Robert Taylor in this case. The following statements are own  
10 my own true knowledge, and if called upon to testify, I could and would  
11 competently testify to the truth of same. I am also one of the custodians of record  
12 of Gordon & Rees LLP and know how documents are maintained in the ordinary  
13 course of business at this firm, including how the file for this case is kept and  
14 maintained.

15 2. On April 11, 2014, the parties attempted to participate in a telephone  
16 conference during which Plaintiff insisted on recording the conversation. City  
17 Attorney Elizabeth Greenwood, Hilary E. Feybush and I all informed Plaintiff that  
18 we would not consent to be recorded, which resulted in Plaintiff hanging up and  
19 refusing to participate. Attached hereto as Exhibit A is a true and correct copy of  
20 an email dated April 14, 2014 sent from Ms. Greenwood to Plaintiff memorializing  
21 Plaintiff's actions during the telephone conference.

22 3. On April 15, 2014, Plaintiff sent an email to Defendants' counsel  
23 asking them to sign a Stipulation regarding audio recordings of conversations.  
24 Plaintiff's correspondence stated that if she did not hear back by from counsel, she  
25 would assume that counsel approved of such. On April 17, 2014, I responded that  
26 I did not approve or agree to this stipulation. Attached hereto as Exhibit B is a true  
27 and correct copy of this email correspondence between the parties.

28 4. On May 15, 2014, this Court explained to Plaintiff at the hearing on

1 Defendants' Motion to Compel Plaintiff's Independent Psychiatric Examination  
2 that the Court could not order Defendants' counsel to consent to being audio  
3 recorded. This Motion was filed that same day.

4 5. On May 22, 2014, Plaintiff sent Defendants' counsel and Detective  
5 Purcell an email that she described as her "CEASE AND DESIST order" stating  
6 that the email was their notice that anytime they speak to her or are around her, she  
7 may be recorded. Attached hereto as Exhibit C is a true and correct copy of the  
8 email correspondence Plaintiff sent on May 22, 2014.

9 6. Despite Plaintiff's husband John Hay's Proof of Service that states he  
10 served a copy of the Motion via U.S. Mail on May 13, 2014, the envelope shows it  
11 was mailed on May 14, 2014. Attached hereto as Exhibit D is a true and correct  
12 copy of the envelope we received that contained Plaintiff's Motion. Accordingly,  
13 this Motion is untimely.

14 7. Defendants request that this Court impose sanctions against Plaintiff  
15 for having filed this frivolous Motion and continuing to burden counsel with  
16 repeated demands that she be permitted to record conversations after counsel has  
17 repeatedly informed her that they will not consent.

18 8. The hourly rate charged for partners (Lisa K. Garner) in this case is  
19 \$275 per hour; associates (Hilary E. Feybush) are billed out at \$250 per hour. This  
20 firm has spent 3.7 associate hours and 1.2 partner hours in connection with this  
21 Opposition, and expects to spend another 3 hours preparing for and attending the  
22 hearing. Accordingly, sanctions in the total amount of \$1,975 are sought to be  
23 imposed against Plaintiff.

24 Executed this 23<sup>rd</sup> day of May 2014, at Los Angeles, California. I declare  
25 under penalty of perjury under the laws of the State of California and the United  
26 States of America that the foregoing is true and correct

27 s/ Lisa K. Garner  
28 LISA K. GARNER

# EXHIBIT

## A

**From:** Elizabeth Greenwood [<mailto:elizabeth.greenwood@lacity.org>]  
**Sent:** Monday, April 14, 2014 2:50 PM  
**To:** Nadine Hays  
**Cc:** Lisa Garner; Hilary Feybush; Betty Jue  
**Subject:** Re: Hays v. LAPD/Taylor

Ms. Hays,

We discussed many depositions for April 21, 22, and 23, 2014. Discussion and proper notice are two different things. I do not have written notice of any deposition of the April 21, 2014. I have sent out notices for depositions on those days mentioned in my email. The notices went out Friday and today. If you had participated in the conference call about scheduling you would be aware of what notices went out. Again, I am truly sorry you chose to hang up.

You have not been deposed three whole days. We have only managed a few hours each day. For example, we only got in a couple of hours last Thursday because you came in the room and demanded to speak with the Judge before you would start. First because you wanted to interview Detective Purcell, second because I was preventing you from receiving your medical records and then finally because I gave you your medical records. You refused to proceed until you had spoken to the Judge that was not until after 1:00 in the afternoon. At the conclusion of the day we all - you, Ms Garner and I - agreed to finish your deposition on the 21st. Maybe you are not remembering right now. After we agreed, you said were going to draft a list of which defendants were included in each cause of action so that we could shorten up the deposition and finish on the April 1, 2014.

During the scheduling conference call Ms. Garner and I discussed the possibility of extending the time for taking depositions that were properly noticed before the May 5, 2014, discovery cut off date. We agreed that would work if there was a date certain by which they all must be completed. This agreement is in opposition to Judge Walsh's ruling and current scheduling order. What Ms. Garner sent out was a proposed agreement to allow just that, depositions noticed before May 5, 2014 and completed before May 23, 2014. I agreed to that. Now it is up to you to agree or disagree.

I hope to see you on Monday, April 21, 2014 to finish your deposition.

Sincerely,  
Elizabeth Greenwood

On Mon, Apr 14, 2014 at 2:20 PM, Nadine Hays <[nadinehays@aol.com](mailto:nadinehays@aol.com)> wrote:

April 14, 2014

Dear Ms. Garner and Ms. Greenwood:

My depo cannot be on April 21...I am deposing Frank, Walker, and Montgomery and you have been given proper notice.

We changed the depo date for April 22 to April 21 already, but you must have not written that down. You have also been noticed of that rescheduling.

Please feel free to pat yourself on the back as much as you feel necessary, but I really don't need to be forced to read your trite verbage, such as:

"This matter was filed in November 2012, and nothing has prevented you from doing the discovery you seek. My client, on the other hand, has only been in this lawsuit just over a week and we are committed to abiding by the Court's requirement that all depositions be completed by May 5, 2014."

This type of "put down" may work with other individuals, but I ignore it and, personally find it much more professional, if you would simply leave it out of your communications with me. I know the games attorneys play, so please stop the games and let's try to be a bit more professional. Another game attorneys like to play, and you have once again become a party to, is "flood them with paperwork" (I just got the huge package of subpoenas in the mail today).

As you and Ms. Greenwood already know, I do not have any medical records, so I cannot produce them for you on April 30, 2014.

I have already written for my medical records from Kaiser Permanente, Bellevue Hospital, and Laura Denke. To date I have not received anything back.

As I stated in my previous correspondence, I do not wish for any of my medical records to be public record. Everything is to be kept "under seal". If you and Ms. Greenwood are allowed to have either redacted copies or non-redacted copies, I need to have a signed stipulation that states that all medical records are only for your information in this case, they are not to be released to anyone, and they will be destroyed when this case is over.

Can you please clarify for me what you meant that "the Defendants are in the process of noticing depositions as well, and we plan to use April 25, 28, 30, and May 1 and 2 for depositions." These are the days that I have chosen and there will be no time for you to conduct depositions on these days.

I thought the "The Defendants" are the ones that have been deposing me for the last 3 deposition dates. Please clarify for me.

Please clarify what you mean by:

We will not agree to continue the Court-ordered date of May 5, 2014 as the last day to serve written discovery.

I am going to assume that this means Request for Admissions and Interrogatories only.

As information becomes available, I may need to send out subpoenas. I need to be certain that I will not be time-barred as far as that is concerned.

I am in the process of writing a pleading which will highlight some of my other concerns. You should receive a copy of that shortly. Basically, we may need to accept a proposed schedule, with the opportunity to revise as necessary.

I am in the process of trying to schedule a hip replacement, which will take me out of commission for a while.

Thank you for your time and hopeful understanding regarding these issues.

Sincerely,

Nadine Hays

**From:** Lisa Garner [mailto:[lgarner@gordonrees.com](mailto:lgarner@gordonrees.com)]  
**Sent:** Monday, April 14, 2014 12:39 PM  
**To:** [nadinehays@aol.com](mailto:nadinehays@aol.com)  
**Cc:** [elizabeth.greenwood@lacity.org](mailto:elizabeth.greenwood@lacity.org); Hilary Feybush; Betty Jue  
**Subject:** Hays v. LAPD/Taylor  
**Importance:** High

Dear Mrs. Hays,

This correspondence is in response to your emails of April 11, 2014 and of April 14, 2014 concerning the schedule in this lawsuit. I am sorry that you refused to discuss this matter in a conference call on April 11, 2014, but we cannot consent to be recorded by you.

This matter was filed in November 2012, and nothing has prevented you from doing the discovery you seek. My client, on the other hand, has only been in this lawsuit just over a week and we are committed to abiding by the Court's requirement that all depositions be completed by May 5, 2014. We are not willing to extend the discovery cut off date much more, but make a proposal that we believe will consider all the parties' discovery needs in this case.

## I. Depositions

*Provided depositions are properly noticed by May 5, 2014*, I am willing to give you and all parties until May 23, 2014 to finish depositions. That means no new deposition notices, just that we will give each other more time to finish the depositions already properly noticed.

We suggest that your deposition proceed (and hopefully conclude) on April 21, 2014 at 10:30 a.m. I am not available on April 22, 2014 at all, so I suggest that those depositions you noticed for that day be rescheduled. You have also noticed depositions for April 23, 2014 and I am available on that date. We have agreed to provide Mr. Taylor for deposition on April 29, 2014, but you must properly notice this deposition. The Defendants are in the process of noticing depositions as well, and we plan to use April 25, 28, 30, and May 1 and 2 for depositions. We will be happy to coordinate with you and Ms. Greenwood a deposition schedule based upon completion of all timely and properly noticed depositions by May 23, 2014.



## II. Written Discovery

We will not agree to continue the Court-ordered date of May 5, 2014 as the last day to serve written discovery.

## III. Other Court Deadlines

We propose the following new deadlines:

Exchange of Experts' Reports	July 1, 2014
Exchange of Rebuttal Expert Reports	September 1, 2014
Expert Discovery Cut Off (for non-rebuttal experts)	October 1, 2014
Rebuttal Expert Discovery Cut Off	November 1, 2014
Last Day to File Motion for Summary Judgment:	December 1, 2014

## IV. Conclusion

By a copy of this correspondence to Ms. Greenwood, I request that she provide us with her position on these issues.

Please let me know if you will agree to this proposed schedule. If so, I will take the laboring oar to prepare a stipulation.

Sincerely,

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LISA K. GARNER | Partner  
GORDON & REES LLP

633 West Fifth Street, 52nd Floor  
Los Angeles, CA 90071  
P: 213-576-5000 | F: 213-680-4470

# EXHIBIT B

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**From:** Lisa Garner  
**Sent:** Thursday, April 17, 2014 11:03 AM  
**To:** 'Nadine Hays'; 'Elizabeth Greenwood'  
**Cc:** Hilary Feybush  
**Subject:** RE: Joint Stipulation regarding audio recording of conversations

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Mrs. Hays,

I do not approve or agree to this stipulation.

Sincerely,

---

LISA K. GARNER | Partner  
GORDON & REES LLP

633 West Fifth Street, 52nd Floor  
Los Angeles, CA 90071  
P: 213-576-5000 | F: 213-680-4470  
lgarner@gordonrees.com

Arizona • California • Colorado • Connecticut • Florida • Georgia • Illinois • Maryland  
Missouri • Nevada • New Jersey • New York • North Carolina • Oregon • Pennsylvania  
South Carolina • South Dakota • Texas • Virginia • Washington • Washington, D.C.

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**From:** Nadine Hays [<mailto:nadinehays@aol.com>]  
**Sent:** Tuesday, April 15, 2014 11:32 PM  
**To:** 'Elizabeth Greenwood'; Lisa Garner  
**Subject:** Joint Stipulation regarding audio recording of conversations

April 15, 2014

Dear Ms. Greenwood and Ms. Garner:

Please see attached. Please fill in, sign, and returned scanned copy by 10:30 AM.

If I do not hear back from you, I will assume that you approve of the proposed stipulation.

Thanks for your time and hopeful cooperation.

Sincerely,

Nadine Hays

# EXHIBIT C

**From:** Nadine Hays <nadinehays@aol.com>  
**Sent:** Thursday, May 22, 2014 6:32 PM  
**To:** 'Elizabeth Greenwood'; Lisa Garner  
**Cc:** Hilary Feybush  
**Subject:** THIS IS YOUR NOTICE THAT ANYTIME YOU SPEAK TO ME OR AROUND ME YOU MAY BE RECORDED

May 22, 2014

Dear Ms. Greenwood, Ms. Garner, and Detective Purcell:

I apologize if this sounds a bit aggressive, but you have left me with no other alternative. I am sick and tired of intentionally being abused...yes, you know each and every act that you do, including the cancellation of Mr. Kronos' deposition today, causes my brain to scramble. I will ask you nicely, once again, to please not continue with this very abusive behavior. I do have a family that I need to be semi-functional around and I take great offense when you deliberately do things to prevent this from being possible. I suppose you could call this my CEASE AND DESIST order, in an informal manner.

Also, this is my notice to you that whenever I am around people, including you, you may be recorded. I am doing that more and more these days, as each time you play your games with me, my ability to think clearly diminishes. I think you can see that this will prejudice me immensely as we move forward. I would greatly appreciate it if you can stop playing your attorney games with me.

Thank you for your hopeful cooperation.

Sincerely,

Nadine Hays

Ms. Greenwood: I do not have "Detective Dave's" e-mail, so please forward this on to him as well.

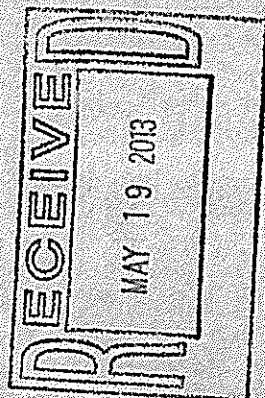
# EXHIBIT D

**adine Hays**  
ghland Hills Dr.  
illo, CA 93010-1247

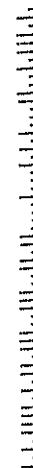
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Case 1:12-cv-10219-DMG-PJW Document 76-1 Filed 05/23/14 Page 15 of 17 Page ID  
#1519



Jim Garner  
Gordon & Rees, LLP  
633 W Fifth Street  
5th Floor  
Los Angeles CA 90071





**CERTIFICATE OF SERVICE**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is: Gordon & Rees LLP 633 West Fifth Street, 52<sup>nd</sup> Floor, Los Angeles, CA 90071. On May 23, 2014, I served the within documents:

**DECLARATION OF LISA K. GARNER IN SUPPORT OF DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR HER TO BE ALLOWED TO RECORD CONVERSATIONS WITH DEFENSE COUNSELS WITHOUT THE CONSTANT THREAT OF BEING PROSECUTED FOR A FELONY CRIME AND IN SUPPORT OF REQUEST FOR SANCTIONS AGAINST PLAINTIFF FOR FILING A FRIVOLOUS MOTION**

☒ **Electronically:** I caused a true and correct copy thereof to be electronically filed using the Court's Electronic Court Filing ("ECF") system.

☒ I served those parties who are not registered participants of the ECF System as indicated below.

☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in United States mail in the State of California at Los Angeles, addressed as set forth below.

☒ by placing a true copy thereof enclosed in a sealed envelope, at a station designated for collection and processing of envelopes and packages for overnight delivery by **FedEx** as part of the ordinary business practices of Gordon & Rees LLP described below, addressed as follows:

***Via Fedex***

*Plaintiff In Pro Per*

Nadine Hays

370 Highland Hills Drive

Camarillo, CA 93010

Telephone: (805) 484-4452

Facsimile: (818) 474-7676

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the Bar of this court at whose direction the service was made.



1 I declare under penalty of perjury under the laws of the United States of  
2 America that the above is true and correct.

3 Executed on **May 23, 2014**, at Los Angeles, California.

4  
5 /s/ Carolina Rodriguez  
6 Carolina Rodriguez  
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